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March 30, 2020

Hon. Vernon S. Broderick United States District Judge United States District Court Southern District of New York 40 Foley Square New York, NY 10007

Re: United States v. Joshua Gumora

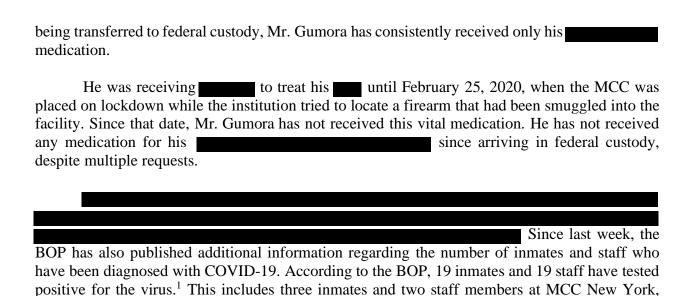
<u>Docket No.: 20-CR-144</u>

Dear Judge Broderick:

I am CJA counsel to Defendant Joshua Gumora. On March 24, 2020, I filed a motion seeking Mr. Gumora's pre-trial release with, among other conditions, the special condition of home confinement with electronic monitoring. I am concerned for Mr. Gumora's safety, given the conditions at the MCC relative to COVID-19 coupled with his medical conditions. In the afternoon of March 24th, I supplied the Court with a brief supplement to my motion.

On March 25, 2020, the government filed a response in opposition to Mr. Gumora's motion. I write now to provide the Court with some additional information I have received since last week, which I believe further supports Mr. Gumora's motion for release. I also respectfully ask Your Honor to allow the parties to appear by telephone to be heard on Mr. Gumora's motion, as permitted by the CARES Act signed into law on Friday.

Since	filing	my mot	ion, I	have h	ad an	opportu	nity t	o comi	nunicate	further	with
Mr. Gumora.	He clar	ified for	me tha	at he no	ot only	suffers	from				
			that p	place M	Ir. Gur	nora at a	highe	er risk f	for devel	oping se	rious
complications	if he co	ontracts C	COVID	-19.							
When	he was	in the cus	stody o	f NYC	DOCS	Mr Gu	mora v	was rece	eiving fou	r medica	ations
	ne was	iii tiic cu.	siouy o	TNIC	DOCS	, MII. Gu	iiioia v	was rece	aving 100		
to treat his:											Since



We suspect that the number of infected individuals at MCC is actually a great deal higher than the three identified by the BOP on its website. Without revealing any attorney-client confidences, we have come to learn that five inmates from Mr. Gumora's unit have been taken out with presumptive symptoms of COVID-19. Further, other inmates who are experiencing symptoms are reticent to report them because they fear being ostracized by other inmates and because they do not want to be forced into the SHU, which is the institution's plan for segregating

infected inmates, without any ability to communicate with their families or attorneys.

where Mr. Gumora is housed.² Further, the first inmate in BOP custody has died from complications related to COVID-19³, further underscoring the danger posed to those inmates with

Mr. Gumora's unit is currently locked in their cells 23 hours each day to try to limit the spread of the virus, but everyone is still fed together, placing the 96 inmates on Mr. Gumora's unit in close quarters with each other. Mr. Gumora reports being in close physical contact with those inmates who have already been removed from his unit for being symptomatic for COVID-19. Mr. Gumora also reports that while staff members have recently been provided with gloves and masks, inmates do not have access to any kind of protective equipment, and have had limited, if any, access to cleaning supplies. Mr. Gumora has been asking for soap for days but has not received any. According to Mr. Gumora, commissary was open on March 27, for the first time since February 20. Mr. Gumora used this opportunity to try to buy antibacterial soap but was not sent any. He has reported that the unit is supposedly being sent bottles of cleaning solution and rags, but the cleaning solution they have received is not an alcohol- or bleach-based cleaner.

While we readily acknowledge that Mr. Gumora has a poor criminal history that includes several convictions and warrants based on his failure to appear, we believe that, given the realities of the current health crisis, Mr. Gumora's lack of ties outside New York, his lack of money or

underlying health conditions.

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¹ https://www.bop.gov/coronavirus/

 $^{^2}$ Id

³ First Known Federal Inmate Dies of Coronavirus, at https://reason.com/2020/03/29/first-known-federal-inmate-dies-of-coronavirus/

resources, and the requested condition of home confinement with electronic monitoring, he does not present a risk of flight or danger to the community. Further, we believe that Mr. Gumora's continued incarceration at the MCC New York presents a clear and present danger to his health—I dare say to his life—something that no human being should be forced to experience.

For the reasons stated above, as well as in our March 24, 2020 motion and supplement, we ask that the Court grant Mr. Gumora's release on bond with the condition of home confinement with electronic monitoring. In the alternative, we ask that the Court please schedule a teleconference so that the parties may further address the issues raised in Mr. Gumora's motion and the government's opposition.

I thank Your Honor for your consideration and wish everyone well.

Respectfully submitted,

/s/ Edward V. Sapone Edward V. Sapone

cc: AUSA Daniel Wolf